

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

UNITED STATES OF AMERICA, and)
COMMONWEALTH OF VIRGINIA, ex rel.)
Megan L. Johnson, Leslie L. Webb, and)
Kimberly Stafford-Payne,)
Plaintiffs,)
vs.) Civil Action No. 1:07-CV-000054
UNIVERSAL HEALTH SERVICES, INC.,)
KEYSTONE EDUCATION AND YOUTH)
SERVICES, LLC, and KEYSTONE)
MARION, LLC, d/b/a MARION YOUTH)
CENTER,)
Defendants.)

JOINT STATUS REPORT REGARDING SETTLEMENT

Defendants Universal Health Services, Inc., Keystone Education and Youth Services, LLC, and Keystone Marion, LLC, d/b/a Marion Youth Center (“Defendants”), together with the United States of America and the Commonwealth of Virginia (“the Government”), and Relators (collectively, “the Parties”) file the following Joint Status Report Regarding Settlement:

1. This Court’s August 16, 2011 Order (Dckt. No. 299) set forth a series of deadlines for finalizing the settlement agreement in principle that was reached between the Parties on August 8, 2011.

2. The Parties have worked diligently toward finalizing the various settlement documents in accordance with the August 16, 2011 Order:

- On September 2, 2011, the Government submitted its proposed Settlement Agreement to Defendants.

- On September 2, 2011, the Office of Inspector General for the United States Department of Health and Human Services (“HHS-OIG”) submitted its proposed Corporate Integrity Agreement (“CIA”) to Defendants.
- On September 9, 2011, Defendants submitted proposed revisions to the settlement agreement circulated by the Government.
- On September 9, 2011, Defendants wrote to HHS-OIG to object to two significant provisions in the draft CIA, while preserving its remaining objections pending the resolution of those two threshold issues. On September 16, 2011, HHS-OIG wrote to Defendants to explain HHS-OIG’s reasons for including these provisions. Defendants intend to respond to HHS-OIG’s letter early next week.

3. After multiple discussions between Defendants and the Government, the Government settlement agreement is very close to being finalized. In addition to some minor edits, the following issues are expected to be resolved shortly:

- Defendants seek a release that extends through the present. The Government seeks a release that ends as of March 2, 2010. The Parties are currently considering a compromise on the issue.
- The Government has requested that Defendants pay interest on the settlement amount from September 2, 2011 until the date of payment. Defendants have communicated that they will not agree to the request.
- Defendants have requested that the Commonwealth’s release include any claims that could be brought under Va. Code Ann. § 32.1-313, Va. Code Ann. § 32.1-312(A)(3), Va. Code Ann. § 32.1-321.2, Va. Code Ann. § 32.1-321.3, and Va. Code Ann. § 2.2-4321. The Commonwealth is currently considering whether it will agree to Defendants’ request.

- Defendants have requested revisions to a provision in the agreement that addresses “unallowable costs” for the purposes of Medicaid cost reporting. The United States is currently considering whether it will agree to Defendants’ request.

4. While the Settlement Agreement is very near completion, it contains language relating to the Corporate Integrity Agreement (the specifics of which have yet to be determined) and will fail to be finalized until such language is completed. It is the Commonwealth's position that such Corporate Integrity Agreement language is material to the Settlement Agreement. Pursuant the Settlement Scheduling Order, the Commonwealth's approval process is to begin on 9/21 with the DMAS director. It is the Commonwealth's position that the DMAS Director will not be able to approve the Settlement Agreement until such agreement is finalized.

5. Following the entry of the Court’s August 16, 2011 Order, the Parties decided to draft a separate settlement agreement to address the Relators’ individual claims against Defendants in this lawsuit. Defendants circulated a draft of that agreement to Relators’ counsel on September 7, 2011. Relators counsel will be circulating his proposed revisions to the agreement shortly. Relators and Defendants do not anticipate any delays in the execution of the Relators’ Settlement Agreement.

Dated: September 16, 2011

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